

## Addenda IX

### **Visual Artists Rights Act (VARA) Of 1990** Summary prepared by Jeffrey J. York, North Carolina Arts Council

Applies to only limited fine arts categories of "visual art works" - original paintings, sculptures, drawings, prints (in editions of 200 and below) and still photographs.

Is only applicable to works produced after June 1, 1991

Asserts in a limited way that art ownership is not an absolute property right. Artist injects his or her spirit into the work and the artist's personality as well as the integrity of the work should be protected. *Carter vs. Helmsley-Spear, Inc.*

#### **Rights Include:**

1. disclosure or divulgation, which allow the artist to determine when a work is complete and may be displayed.
2. paternity of attribution, which allows an artist to protect the identity of his name with his work, and to disclaim it when applied to another's
3. the right to modify or withdraw a work following publication
4. integrity, which allows the artist to prevent his work from being displayed in an altered, distorted or mutilated form that is prejudicial to the artist's honor or reputation (when the work is of recognized stature, the rights of integrity includes the right to prevent intentional or grossly negligent destruction of the work. Recognized statute left open to case-by-case interpretation. Work does not have to be copyrighted.

#### **Exceptions/Exclusions**

- Rights only protected during the artist's life and cannot be conferred to others. In case of joint authorship, rights remain in force for the life of the last surviving author.
- Modifications, etc. due to the passage of time or inherent nature of the materials are exempt. Works that threaten public safety are exempt and may be removed (loop hole)
- Works that are incorporated into a building in such a way that removing them will cause damage or modification are exempt. Ownership of attached works transfer with building title. Building owner may remove any work from property with fair and diligent notification of artist or attempt at fair and diligent notification.
- Works for hire and applied arts are exempt.
- VARA rights are subject to 107 fair use limitations on exclusive copyright –fair use purposes for which the work may be reproduced
- VARA does not intrude on the standard protections and agreements included in contracts.